



DEPARTMENT OF TRANSPORTATION
HAZARDOUS MATERIALS REGULATIONS BOARD
WASHINGTON, D.C. 20590

9068

[Docket No. HM-28; Amdts. 173-41A,
177-15A]

PART 173—SHIPPERS

**PART 177—SHIPMENTS MADE BY
WAY OF COMMON, CONTRACT,
OR PRIVATE CARRIERS BY PUBLIC
HIGHWAY**

Removal of Label Exemption

On January 30, 1974, amendments to the Hazardous Materials Regulations of the Department of Transportation were published in the *FEDERAL REGISTER* (Docket No. HM-28; Amendments Nos. 173-41, 177-15, 36 F.R. 1473), concerning the removal of certain exemptions from the requirements for labeling of packages containing specified classes of hazardous materials. The preamble to these amendments explained the Board's reasons for removing the exemptions.

In accordance with 49 CFR 170.35, the Compressed Gas Association and the National LP-Gas Association, representing more than 2,000 member companies, have petitioned the Board for reconsideration of the amendments as they in to shipments of compressed gases by motor vehicle. In their petitions, the Associations recommended that the Board adopt an alternate proposal for shipments of compressed gases by highway. The proposals appear to have considerable merit as they would pertain to contract and private motor carriage.

Essentially, the Associations proposed a standardized marking system that would consist of a red or green diamond centered within a marking area having a contrasting white background. The marking area to the left would be designated for marking the name of contents as listed in § 172.5. The marking area to the right, designated and outlined by a dotted line would be reserved for proprietary and precautionary information as desired by the shipper and would not be a mandatory part of the standard.

Included in the diamond would be the word "flammable" or "nonflammable", as appropriate. The most practical manner to apply the marking would be the use of decals of durable quality. The Compressed Gas Association has identified its standard as "CGA Pamphlet C-7, Appendix A," dated May 15, 1971.

The Board member representing the Federal Highway Administration believes that provision for this alternative system is warranted in the private and contract motor carriage sector, where personnel are more experienced in handling the materials they carry than are the handling personnel and drivers of common carriers. In the common carrier sector, even when truckload lots are

involved, it is essential that a uniform and consistent labeling system be maintained in order to assure its maximum effectiveness. Also, there are occurrences which necessitate the "breaking up" of truckload lots even though not intended at the time of shipment. The petitioners' request that truckload quantities by common carriers be included in this amendment are hereby denied.

The alternative marking system is responsive to the statement made in the earlier amendment concerning the degree of hazard of the gas contained in the cylinder. The Board stated that the cylinder itself signifies to some degree the presence of a hazard. This system distinguishes between flammable and nonflammable compressed gases. Another convincing contention is the likelihood that the alternative markings will be maintained on cylinders more than labels following delivery, and will thus improve safety in many sectors perhaps not subject to the Department's regulations.

Additional time will be needed to apply the alternative markings to millions of cylinders. Therefore, the effective date of these amendments as they apply to the transportation of compressed gases classed as "flammable" or "nonflammable" by contract and private motor carriage, is extended to October 1, 1971. Otherwise, the amendments are effective on June 10, 1971, as specified in the earlier amendment. Only those portions of amendments 173-41 and 177-15 pertaining to transportation of compressed gases by contract and private motor carrier are being amended. However, to avoid confusion, all amendments made under Docket No. HM-28 are set forth in this document.

In consideration of the foregoing, amendments 173-41 and 177-15, originally published in the *FEDERAL REGISTER* January 30, 1971 are amended as follows:

I. Part 173:

(A) In § 173.402, paragraph (c) is amended; paragraph (d) is added; paragraph (e) is canceled, as follows:

§ 173.402 Labeling of hazardous materials.

(c) Labels are not required on packages containing hazardous materials when the packages are—

(1) Loaded and unloaded under the supervision of Department of Defense personnel, and

(2) Under escort by Department of Defense personnel in a separate vehicle.

(d) Labels are not required on cylinders containing compressed gases classed as flammable or nonflammable when the cylinders—

(1) Are carried by private and contract motor carriers,

(2) Are not overpacked, and

(3) Are durably and legibly marked in accordance with CGA Pamphlet C-7,¹ Appendix A, dated May 15, 1971 entitled "A Guide for the Preparation of Precautionary Markings for Compressed Gas Containers."

(e) [Canceled]

(B) In § 173.404, paragraph (h) is canceled as follows:

§ 173.404 Labels.

* * * * *

(h) [Canceled]

II. Part 177:

In § 177.815, paragraphs (a) and (b) are amended; paragraph (c) is added; paragraph (d) is canceled, as follows:

§ 177.815 Labels.

(a) Labels prescribed in §§ 173.402 through 173.414 of this chapter must have been applied to packages by the shipper, unless exempted from the labeling requirements, the exemption being noted on the shipping papers.

(b) Labels are not required on packages containing hazardous materials when the packages are—

(1) Loaded and unloaded under the supervision of Department of Defense personnel, and

(2) Under escort by Department of Defense personnel in a separate vehicle.

(c) Labels are not required on cylinders containing compressed gases classed as flammable or nonflammable when the cylinders—

(1) Are carried by private and contract motor carriers,

(2) Are not overpacked, and

(3) Are durably and legibly marked in accordance with CGA Pamphlet C-7,¹ Appendix A, dated May 15, 1971, entitled "A Guide for the Preparation of Precautionary Markings for Compressed Gas Containers."

(d) [Canceled]

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(Secs. 831-835, Title 18, United States Code; sec. 9, Department of Transportation Act (49 U.S.C. 1657))

Issued in Washington, D.C., on May 14, 1971.

KENNETH L. PIERSON,
Acting Director, Bureau of Motor
Carrier Safety, Federal
Highway Administration.

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¹ Copies of CGA Pamphlet C-7, Appendix A, may be obtained from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York, NY 10036, and the National LP-Gas Association, 79 West Monroe Street, Chicago, IL 60603.